

# SUPREME COURT OF ARKANSAS

IN RE: ARKANSAS DISTRICT  
COURT RULES; RULES OF CIVIL  
PROCEDURE; RULES OF EVIDENCE;  
RULES OF THE SUPREME COURT  
AND COURT OF APPEALS; AND  
RULES OF APPELLATE  
PROCEDURE—CIVIL

**Opinion Delivered** October 9, 2008

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## PER CURIAM

On April 17, 2008, we published for comment the Arkansas Supreme Court Committee on Civil Practice’s proposals for changes in the Arkansas District Court Rules, Rules of Civil Procedure, Rules of Evidence, Rules of the Supreme Court and Court of Appeals, and Rules of Appellate Procedure—Civil. We thank everyone who reviewed the proposals.

We accept the Committee’s recommendations except with respect to the proposed change to Supreme Court Rule 4-4 (c) concerning cross-appellee’s briefs. We adopt the following amendments to be effective January 1, 2009 and republish the Rules and Reporter’s Notes as set out below.

We encourage all judges and lawyers to review this *per curiam* in order to familiarize themselves with the changes to the rules. We again express our gratitude to the members of our Civil Practice Committee for the Committee’s diligence in performing the important task of keeping our civil rules current, efficient, and fair.

## **A. ARKANSAS DISTRICT COURT RULES**

Rule 1 is amended to read:

### **Rule 1. Scope of rules.**

(a) Except as provided in subdivision (b), these rules shall govern the procedure in all civil actions in the district courts and county courts (hereinafter collectively called the "district courts") of this state. They shall apply in the small claims division of district courts except as may be modified by Rule 10 of these rules.

(b) These rules shall not apply to an appeal of a tax assessment from an equalization board to the county court. Rule 9 of these rules, however, shall apply to a tax-assessment appeal from county court to circuit court.

(c) Where applicable and unless otherwise specifically modified herein, the Arkansas Rules of Civil Procedure and the Arkansas Rules of Evidence shall apply to and govern matters of procedure and evidence in the district courts of this State. Actions in the small claims division of district court shall be tried informally before the court with relaxed rules of evidence, *see* Rule 10(d)(2) of these rules.

(d) Rules specific to criminal proceedings in district court shall so indicate, and in such cases, such rules shall apply to actions pending in city courts.

(e) Other matters affecting district courts may be found in Administrative Order Number 18.

The Reporter's Notes accompanying Rule 1 are amended by adding:

**Addition to Reporter's Notes, 2008 Amendment.** Subdivision (b) is new. It recognizes that our statutes prescribe specific procedures for appealing a tax assessment from an equalization board to the county court. Ark. Code Ann. §§ 26-27-311, 318. Those statutory procedures, not the District Court Rules, govern such cases in the county court with one exception. The exception is that Rule 9 governs appeals in tax-assessment cases from county court to circuit court. Former subdivisions (b)–(d) have been redesignated as (c)–(e).

Rule 9 is amended to read:

### **Rule 9. Appeals to circuit court.**

(a) *Time for Taking Appeal From District Court.* All appeals in civil cases from district courts to circuit court must be filed in the office of the clerk of the particular circuit court having jurisdiction of the appeal within 30 days from the date of a docket entry awarding judgment

regardless of whether a formal judgment is entered. The 30-day period is not extended by a motion for new trial, a motion to amend the court's findings of fact or to make additional findings, or any other motion to vacate, alter or amend the judgment.

(b) *How Taken From District Court.* A party may take an appeal from a district court by filing a certified copy of the district court's docket sheet, which shows the awarding of judgment and all prior entries, with the clerk of the circuit court having jurisdiction over the matter. Neither a notice of appeal nor an order granting leave to appeal shall be required. The appealing party shall serve a copy of the certified docket sheet upon counsel for all other parties, and any party proceeding pro se, by any form of mail that requires a signed receipt.

(c) *Procedure on Appeal From District Court.*

(1) All the parties shall assert all their claims and defenses in circuit court. Within thirty days after a party perfects its appeal to circuit court by filing a certified copy of the district court docket sheet with the circuit clerk, the party who was the plaintiff in district court shall file a complaint and plead all its claims in circuit court. The party who was the defendant in district court shall file its answer, motions, and claims within the time and manner prescribed by the Arkansas Rules of Civil Procedure. All the parties shall serve their pleadings and other papers on counsel for all opposing parties, and on any party proceeding pro se, by any form of mail which requires a signed receipt.

(2) At the time they file their complaint, answer, motions, and claims, the parties shall also file with the circuit clerk certified copies of any district court papers that they believe are material to the disputed issues in circuit court. Any party may also file certified copies of additional district court papers at any time during the proceeding as the need arises.

(3) As soon as practicable after the pleadings are closed, the circuit court shall establish a schedule for discovery, motions, and trial.

(4) Except as modified by the provisions of this rule, and except for the inapplicability of Rule of Civil Procedure 41, the Arkansas Rules of Civil Procedure shall govern all the circuit court proceedings on appeal of a district court judgment as if the case had been filed originally in circuit court.

(d) *Supersedeas Bond on Appeal From District Court.* Whenever an appellant entitled thereto desires a stay on appeal to circuit court in a civil case, he shall present to the district court for its approval a supersedeas bond which shall have such surety or sureties as the court requires. The bond shall be to the effect that appellant shall pay to appellee all costs and damages that shall be affirmed against appellant on appeal; or if appellant fails to prosecute the appeal to a final conclusion, or if such appeal shall for any cause be dismissed, that appellant shall satisfy and perform the judgment, decree, or order of the inferior court. All proceedings in the

district court shall be stayed from and after the date of the court's order approving the supersedeas bond.

*(e) Special Provisions For Appeals From County Court to Circuit Court.*

Unless otherwise provided in this subdivision, the requirements of subdivisions (a), (b), (c), and (d) govern appeals from county court to circuit court. A party may take an appeal from the final judgment of a county court by filing a notice of appeal with the clerk of the circuit court having jurisdiction over the matter within thirty (30) days from the date that the county court filed its order with the county clerk. A certified copy of the county court's final judgment must be attached to the notice of appeal. In the circuit-court proceeding, the party who was the petitioner or plaintiff in county court shall have all the obligations of the plaintiff in a case that has been appealed from district court to circuit court. If there were no defendants in the county-court proceeding, then the petitioner/plaintiff shall name all necessary, adverse parties as defendants in its complaint filed in circuit court.

*(f) Administrative Appeals.*

(1) If an applicable statute provides a method for filing an appeal from a final decision of any governmental body or agency and a method for preparing the record on appeal, then the statutory procedures shall apply.

(2) If no statute addresses how a party may take such an appeal or how the record shall be prepared, then the following procedures apply.

(A) *Notice of Appeal.* A party may appeal any final administrative decision by filing a notice of appeal with the clerk of the circuit court having jurisdiction of the matter within thirty (30) days from the date of that decision. The notice of appeal shall describe the final administrative decision being appealed and specify the date of that decision. The date of decision shall be either the date of the vote, if any, or the date that a written record of the vote is made. The party shall serve the notice of appeal on all other parties, including the governmental body or agency, by serving any person described in Arkansas Rule of Civil Procedure 4(d)(7), by any form of mail that requires a return receipt.

(B) *The Record on Appeal.* Within thirty (30) days after filing its notice of appeal, the party shall file certified copies of all the materials the party has or can obtain that document the administrative proceeding. Within thirty (30) days after these materials are filed, any opposing party may supplement the record with certified copies of any additional documents that it believes are necessary to complete the administrative record on appeal. At any time during the appeal, any party may supplement the record with a certified copy of any document from the administrative proceeding that is not in the record but the party believes the circuit court needs to resolve the appeal.

(C) *Procedure on Appeal*. As soon as practicable after all the parties have made their initial filing of record materials, the court shall establish a schedule for briefing, hearings, and any other matters needed to resolve the appeal.

The Reporter's Notes accompanying Rule 9 are amended by adding:

**Addition to Reporter's Notes, 2008 Amendment.** The rule has been substantially rewritten to eliminate several points of confusion and difficulty.

Subdivision (a) has been amended. The rule prescribes that the thirty-day time to appeal from a district court runs from the date that the court makes a docket entry of judgment. This change conforms the rule to precedent. *E.g.*, *Lewis v. Robertson*, 96 Ark. App. 114, 239 S.W.3d 30 (2006). This change also preserves the flexibility that district courts need to dispose of many cases with only a docket entry. Counsel and parties proceeding pro se must monitor the district court's docket carefully to determine when the time to appeal begins to run.

The procedure prescribed in subdivision (b) for taking an appeal has been changed. Instead of having to file a certified copy of the entire district court record, now the appealing party must file with the circuit clerk only a certified copy of the district court docket sheet. This document should show all proceedings in the district court, including the judgment appealed from. This simplification makes it easier to perfect an appeal. It eliminates the difficulty that parties often encountered in getting a complete certified record from the district court clerk within thirty days of the judgment. This change also eliminates the need for former subdivision (c), which provided an affidavit procedure when the certified district court record was unavailable and which resulted in litigation about that procedure. *E.g.*, *Nettles v. City of Little Rock*, 96 Ark. App. 86, 238 S.W.3d 635 (2006). New subdivision (b) also conforms the rule to case law. In *McNabb v. State*, 367 Ark. 93, 238 S.W.3d 119 (2006), the supreme court held that a party satisfied former rule 9's requirement that the appealing party file "a record of the proceedings" in the district court by filing a certified district court docket sheet with the circuit clerk.

To ensure notice of the appeal to opposing parties, the appealing party must serve the docket sheet on all other parties by some form of mail that generates a signed receipt. This provision echoes the requirements of Arkansas Rule of Appellate Procedure—Civil 3(f) about serving a notice of appeal. Rule of Civil Procedure 4 does not apply and service of process is not required.

Former Rule 9 was silent about the procedure that circuit courts should follow in perfected appeals from district court. This silence led to confusion. *E.g.*, *Wright v. City of Little Rock*, 366 Ark. 96, 233 S.W.3d 644 (2006). New subdivision (c) outlines the procedure in circuit court: the party who was the plaintiff in the district court must file a complaint and plead its claims again; the other parties must file their answers, motions, and claims; all the parties must

file certified copies of whatever district court materials they believe are important; and then the circuit court should handle the case like any other matter pursuant to the Arkansas Rules of Civil Procedure.

The requirement to plead again is new. It better captures the truth that appeals from district court are appellate in form but original in fact. This new pleading requirement generated a corresponding amendment in Rule of Civil Procedure 81(b), which formerly made pleading again discretionary with the circuit court.

Under settled precedent, an appeal from a district court judgment may not be dismissed without prejudice, either by a party's voluntary nonsuit or by the circuit court. Such a dismissal leaves the district court's judgment intact and finally adjudicates the matter. *Wright, supra*; *Watson v. White*, 217 Ark. 853, 233 S.W.2d 544 (1950). With that exception, and subject to the particularized requirements of this rule, the Arkansas Rules of Civil Procedure apply to circuit court proceedings on appeal from a district court's judgment. To insure that all parties have notice of the claims and defenses in circuit court, and to avoid defaults, all the parties must serve their pleadings by some form of mail requiring a signed receipt.

New subdivision (e) contains some needed special provisions for appeals to circuit court from final orders of the county court. Unless subdivision (e) provides a different procedure, the provisions of subdivisions (a), (b), (c), and (d) govern appeals from county courts to circuit court. This new provision conforms Rule 9 to precedent: the district court rules govern appeals from county courts. *Pike Ave. Dev. Co. v. Pulaski County*, 343 Ark. 338, 37 S.W.3d 177 (2001). Under the Arkansas Constitution, the county courts have jurisdiction over a number of matters, most prominently county taxes (including those on real property) and roads. *See generally* David Newbern & John J. Watkins, 2 Arkansas Practice Series: Civil Practice & Procedure § 2:6 (4th ed. 2005 & Supp. 2007). Former Rule 9 was written solely in terms of appeals from district court, and its requirements did not fit appeals from county courts well. The revised provisions of Rule 9 (a)–(d) are a better fit, but some special provisions for appeals in county-court cases are nonetheless needed.

The procedures used in county courts vary. Some, for example, do not maintain a docket sheet for each matter. All final orders of county courts, however, are filed with the county clerk. New subdivision (e) ties the time for taking an appeal from a county court, and the method of perfecting that appeal, to the filing of the county court's final order. A party seeking to appeal must file a notice of appeal with the appropriate circuit clerk within thirty days of the date that the county court enters its final order. The notice should describe the order being appealed from and must attach a certified copy of that order. The timely filing of this notice is jurisdictional, as was the timely filing of a certified record or affidavit of unavailability under the former rule. *Pike Ave., supra*. Some cases in county court involve petitioners and respondents, rather than plaintiffs and defendants, and some have no adverse party named. New subdivision (e) addresses these issues by making the party who sought

relief in the county court the plaintiff in any appeal to circuit court and obligates that party to open the pleadings with a complaint naming all necessary, adverse parties as defendants. Whether a party is necessary should be determined by reference to Rule of Civil Procedure 19 and the cases interpreting it. Absent a specific and contrary provision in subdivision (e), all the provisions of subdivisions (a), (b), (c), and (d) apply to appeals from county court to circuit court.

Subdivision (f) is new. Rule 9 has long governed appeals from decisions by certain governmental bodies, such as zoning boards and city councils, to circuit court. *See generally* Newbern & Watkins, *supra* § 2:4. The fit between the provisions of the rule and these administrative appeals, however, was imprecise. This resulted in problems for litigants in perfecting their appeals. *E.g.*, *Bd. of Zoning Adjustment of City of Little Rock v. Cheek*, 328 Ark. 18, 942 S.W.2d 821 (1997); *Franks v. Mountain View*, 99 Ark. App. 205, \_\_\_\_ S.W. 3d \_\_\_\_ (2007). The provisions of new subdivision (f) are tailored for administrative appeals.

Paragraph (f)(1) is a default provision: if a statute prescribes the method for filing an appeal or preparing the record on appeal, or both, then the statutory procedures apply. Paragraph (f)(2) and its subparts describe the governing procedures if no applicable statutory procedure exists. A party perfects its appeal under new paragraph (f)(2)(A) by filing a timely notice of appeal with the circuit court. The notice should describe the administrative decision being appealed and the date of that decision. The thirty-day window in which to file the notice is standard. Ark. R. App. P. – Civil 4(a). In cases involving administrative action, uncertainty sometimes arose about the exact date of the decision: was it, for example, when a vote was taken or when the minutes reflecting a vote were approved? *Cf. Cheek, supra*. The revised rule eliminates this uncertainty by allowing either the date of any vote, or the date of a writing embodying the decision (e.g., a letter determination or approved minutes), to be the date of decision. This provision is intended to loosen the governing standard so that parties do not lose their rights to seek judicial review of an administrative decision based on a hyper-technical concern about precisely when the government body made its decision. This new provision ensures that all parties will be informed about the appeal by mandating service of the notice of appeal by any form of mail that requires a return receipt. The certificate of service on the notice should show compliance with this requirement.

New provision (f)(2)(B) creates a new and less rigid procedure for getting the administrative record to the circuit court. The former rule's problematic requirement linking the filing of the record to perfecting the appeal has been eliminated. The record-keeping practices of local administrative bodies vary widely, but this variance should not handicap litigants. Getting any needed administrative record materials to the circuit court is a housekeeping matter, not a jurisdictional requirement. The revised rule instructs all the parties to take turns filing certified copies of whatever materials they possess or can obtain that document the administrative proceedings. And the parties may supplement the record at any time during the circuit court proceeding if important documents from the administrative process become

available.

New provision (f)(2)(C) clarifies that, once the parties have made their initial record filings, the circuit court should enter an order scheduling whatever proceedings are needed—discovery, briefing, or hearings—to resolve the case.

## **B. ARKANSAS RULES OF CIVIL PROCEDURE**

Rule 50, Subdivision (e) is amended to read:

### **Rule 50. Motion for directed verdict and for notwithstanding verdict.**

....

(e) *Appellate Review*. In a jury trial, a party who does not have the burden of proof on a claim or defense must move for a directed verdict based on insufficient evidence at the conclusion of all the evidence to preserve a challenge to the sufficiency of the evidence for appellate review. A party who has the burden of proof on a claim or defense need not make such a motion to challenge on appeal the sufficiency of the evidence supporting a jury verdict adverse to that party. If for any reason the motion is not ruled upon, it is deemed denied for purposes of obtaining appellate review on the question of the sufficiency of the evidence.

The Reporter's Notes accompanying Rule 50 are amended by adding:

**Addition to Reporter's Notes, 2008 Amendment:** Subdivision (e) has been amended and clarified. In a series of cases, the court of appeals had interpreted former subdivision (e) to require the party with the burden of proof to move for a directed verdict on the party's own claim or defense in order to challenge on appeal the sufficiency of the evidence supporting the fact-finder's decision for the opposing party. *Laird v. Weigh Sys. S. II, Inc.*, 98 Ark. App. 393, 255 S.W. 3d 900 (2007); *King v. Powell*, 85 Ark. App. 212, 148 S.W.3d 792 (2004); *Sw. Bell Tel. Co. v. Garner*, 83 Ark. App. 226, 125 S.W.3d 844 (2003). This interpretation required a motion that would rarely be granted and served no useful purpose. *King*, 85 Ark. App. at 228–29, 148 S.W.3d at 802 (Bird, J., concurring). Revised subdivision (e) makes clear that only the party against whom a claim or defense is asserted must move for a directed verdict to preserve its right to challenge on appeal the sufficiency of the evidence. The amendment overrules the contrary holdings in *Garner*, *King*, and *Laird*.

Rule 54 is amended by adding subdivision (b)(5):

### **Rule 54. Judgment; costs.**

.....



(b) *Judgment Upon Multiple Claims or Involving Multiple Parties.*

....

(5) *Named but Unserved Defendant.* Any claim against a named but unserved defendant, including a “John Doe” defendant, is dismissed by the circuit court’s final judgment or decree.

Rule 54 is further amended by adding a phrase to subdivision (d)(2):

....

(d) *Costs.*

....

(2) Costs taxable under this rule are limited to the following: filing fees and other fees charged by the clerk; fees for service of process and subpoenas; fees for the publication of warning orders and other notices; fees for interpreters appointed under Rule 43; witness fees and mileage allowances as provided in Rule 45; fees of a master appointed pursuant to Rule 53; fees of experts appointed by the court pursuant to Rule 706 of the Arkansas Rules of Evidence; fees of translators appointed by the court pursuant to Rule 1009 of the Arkansas Rules of Evidence; and expenses, excluding attorney’s fees, specifically authorized by statute to be taxed as costs.

The Reporter’s Notes accompanying Rule 54 are amended by adding:

**Addition to Reporter’s Notes, 2008 Amendments.** Subdivision (b) has been amended by adding a new paragraph (5), which addresses the “named but not served defendant” problem. Cases asserting claims against multiple defendants are commonplace. In some of those cases, a defendant is never served but nonetheless remains listed as a party and is never dismissed even though the circuit court has resolved all the claims against all the other parties. This situation creates problems on appeal. It wastes litigants’ time and money and scarce judicial resources when, after the case has been appealed and briefed, the appellate court discovers a forgotten defendant whose presence destroys the finality of the judgment being appealed. *E.g., Grooms v. Myers*, 308 Ark. 324, 823 S.W.2d 901 (1992). This problem often arises with “John Doe” defendants. *E.g., Downing v. Lawrence Hall Nursing Ctr*, 368 Ark. 51, 243 S.W. 3d 263 (2006). New paragraph (5) solves this problem by mandating that any claim against a named but unserved defendant (including any John Doe) is dismissed by the circuit court’s final judgment or decree.

Paragraph (d)(2) has also been amended. The change reflects that Rule of Evidence 1009, also adopted in 2008, authorizes the circuit court to appoint a qualified translator and requires the court to tax the reasonable value of the appointed translator’s services as costs.

Rule 81, Subdivision (b) is amended to read:

**Rule 81. Applicability of rules.**

....

(b) *Actions Appealed From Lower Court.* These rules shall apply to civil actions which are appealed to a court of record and which are triable de novo.

....

The Reporter's Notes accompanying Rule 81 are amended by adding:

**Addition to Reporter's Notes, 2008 Amendment:** Subdivision (b) of this rule has been amended to eliminate the circuit court's discretion about pleading again. The 2008 amendment to District Court Rule 9 requires pleading again in every civil case appealed to circuit court from district court. The change here conforms the two rules.

## C. ARKANSAS RULES OF EVIDENCE

We adopt the new Rule 1009:

### **Rule 1009. Translation of foreign-language documents and recordings.**

(a) *Translations.* A translation of foreign-language documents and recordings, including transcriptions, that is otherwise admissible under the Arkansas Rules of Evidence shall be admissible upon the affidavit of a "qualified translator," as defined in paragraph (h) of this rule, setting forth the qualifications of the translator, and certifying that the translation is fair, accurate, and complete. This affidavit, along with the translation and the underlying foreign-language documents or recordings, shall be served upon all parties at least forty-five (45) days before the date of trial.

(b) *Objections.* Any party may object to the accuracy of another party's translation by pointing out the specific inaccuracies of the translation and by stating with specificity what the objecting party contends is a fair and accurate translation. This objection shall be served upon all parties at least fifteen (15) days before the date of trial.

(c) *Effect of Failure to Object or Offer Conflicting Translation.* If no conflicting translation or objection is timely served, the court shall admit a translation submitted under paragraph (a) without need of proof, provided however that the underlying foreign-language documents or recordings are otherwise admissible under the Arkansas Rules of Evidence. Failure to serve a conflicting translation under paragraph (a), or failure to timely and properly object to the accuracy of a translation under paragraph (b), shall preclude a party from attacking or offering evidence contradicting the accuracy of the translation at trial.

(d) *Effect of Objections or Conflicting Translations.* In the event of conflicting translations under paragraph (a), or if objections to another party's translation are served under paragraph (b), the court shall determine whether there is a genuine issue as to the accuracy of a material part of the translation to be resolved by the trier of fact.

(e) *Expert Testimony of Translator*. Except as provided in paragraph (c), this rule does not preclude the admission of a translation of foreign-language documents and recordings at trial either by live testimony or by deposition testimony of a qualified translator.

(f) *Varying of Time Limits*. The court, upon motion of any party and for good cause shown, may enlarge or shorten the time limits set forth in this rule.

(g) *Court Appointment*. The court, if necessary, may appoint a qualified translator, the reasonable value of whose services shall be taxed as court costs.

(h) *Qualified Translator*. A “qualified translator” is an interpreter satisfying the requirements established by the Arkansas Supreme Court in *In Re: Certification for Foreign Language Interpreters in Arkansas Courts*, 338 Ark. App’x. 827 (1999) and Administrative Order Number 11. A Registry of Interpreters is maintained by the Administrative Office of the Courts.

#### **D. ARKANSAS RULES OF THE SUPREME COURT AND COURT OF APPEALS**

Rule 4-4(f) is amended to read:

##### **Rule 4-4. Filing and service of briefs in civil cases.**

...

(f) *Continuances and extensions of time*.

(1) The Clerk or a deputy clerk may extend the due date of any brief by seven (7) calendar days upon oral request. The party requesting a Clerk’s extension must confirm the extension by sending a letter immediately to the Clerk or the deputy clerk with a copy to all counsel of record and any pro se party. If such an extension is granted, no further extension shall be granted except by the Clerk for compliance with these Rules as provided in Rule 4-2(c) or by the Court upon a written motion showing good cause.

The title of Rule 6-1 and subdivision (a) are amended to read:

##### **6-1. Extraordinary writs, expedited consideration, and temporary relief.**

(a) *Extraordinary writs*. (1) Proceedings for an extraordinary writ such as prohibition, mandamus, and certiorari are commenced by filing an original petition in the Supreme Court. These writs are not available if appeal is an adequate remedy. A party seeking appellate review of a circuit court’s decision on a request for an extraordinary writ must file a notice of appeal in the circuit court, not a petition for the writ in the appellate court. When a party petitions the appellate court for an extraordinary writ, the pleadings with certified exhibits from the circuit court, if applicable, are treated as the record.

(2) If the petition falls within subsection (b) or (c) of this Rule, the petitioner is required to file the original and seven copies of the petition along with the record with the Clerk. Evidence of service of a copy upon the adverse party or his or her counsel of record in the circuit court is required. If the proceeding falls within subsection (e) of this Rule, the petitioner is required to file only the original petition along with the certified record.

(3) When the petition includes a certified copy of the record in the circuit court, the petitioner shall serve a copy of that record on the adverse party or his or her counsel. In prohibition cases, the petitioner shall also serve a copy of the record on the circuit judge, who is ordinarily a nominal party and is not required to file a response.

## **E. ARKANSAS RULES OF APPELLATE PROCEDURE—CIVIL**

Rule 2, Subdivision (c)(2) is amended to read:

### **Rule 2. Appealable matters; priority.**

....

(c)(2) Pending an appeal from any case involving a juvenile out-of-home placement, the circuit court retains jurisdiction to conduct further hearings.